

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #9	CCRB Case #: 201804635	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/09/2018 4:54 AM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 12/9/2019	EO SOL 12/9/2019	
Date/Time CV Reported Sat, 06/09/2018 6:43 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 06/09/2018 6:43 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Girard Moscato	00663	933067	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Arnold Nickey	04112	906933	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Girard Moscato	Abuse: Police Officer Girard Moscato forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

Case Summary

On June 9, 2018, § 87(2)(b) filed this complaint over the phone with the CCRB.

On June 9, 2018, at approximately 4:54 a.m., § 87(2)(b) was engaged in a landlord-tenant dispute on the sidewalk in front of § 87(2)(b) in Brooklyn. Police Officer Girard Moscato and Police Officer Arnold Nickey, both of the 73rd Precinct, responded to the scene. PO Moscato forcibly removed § 87(2)(b) to § 87(2)(b) Hospital (**Allegation A—Abuse of Authority:** § 87(2)(g)).

No video footage was available for this incident.

This case was sent to ADR on August 21, 2018, and was returned to investigations on December 18, 2018.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Girard Moscato forcibly removed

§ 87(2)(b) **to the hospital.**

It is undisputed that PO Moscato forcibly removed § 87(2)(b) to § 87(2)(b) Hospital.

According to § 87(2)(b) he was engaged in a landlord-tenant dispute and his landlord had changed the locks on his apartment door (Board Review 01). § 87(2)(b) called 911, as documented in 911 audio and the Event (Board Review 02, Board Review 15). PO Moscato and PO Nickey arrived in a marked patrol car, approached § 87(2)(b) and rear-handcuffed him against the wall of a building while he argued with them. Other officers and EMS arrived, and EMTs strapped § 87(2)(b) to a backboard, lodged him inside an ambulance and transported him to § 87(2)(b) Hospital.

According to PO Moscato, he and PO Nickey responded to a disorderly person call with a description of a white male at Livonia Avenue and Saratoga Avenue in Brooklyn (Board Review 04). When the officers arrived, they approached § 87(2)(b) who did not mention a landlord dispute. § 87(2)(b) appeared to be emotionally disturbed because he was intoxicated, “talking erratically” and repeatedly walked off the sidewalk and drifted into the street, into traffic. PO Moscato and PO Nickey issued multiple verbal instructions to § 87(2)(b) to not walk into traffic, and he refused to comply with the officers. § 87(2)(b) repeatedly said to the officers, “You’re gonna kill me, shoot me.” PO Moscato and PO Nickey decided to handcuff § 87(2)(b) for his safety and the safety of civilians nearby. The officers grabbed § 87(2)(b)’s arms, rear-cuffed him and held him by his arms. § 87(2)(b) while handcuffed, ran from the officers from the sidewalk to the center double-yellow line of Saratoga Avenue and “flopped” on his stomach on the street in the middle of traffic. PO Moscato called for EMS to respond to the scene so § 87(2)(b) could be psychologically evaluated. PO Moscato believed that § 87(2)(b) was an EDP and a threat to himself based on his erratic behavior and him running into traffic. PO Moscato and PO Nickey lifted § 87(2)(b) up and escorted him back onto the north sidewalk of Saratoga Avenue in a sitting position until EMS arrived. The officers assisted EMTs in strapping § 87(2)(b) to a gurney and transporting him to § 87(2)(b) Hospital.

According to EMT § 87(2)(b) he arrived on scene in response to a 911 dispatch for EMS. § 87(2)(b) was intoxicated, and repeatedly refused to answer EMT § 87(2)(b)’s questions. § 87(2)(b) repeatedly asked to be “sent to Russia.” EMT § 87(2)(b) made the decision to take § 87(2)(b) to the hospital for his own safety because § 87(2)(b) refused to cooperate with

the EMTs which prevented them from confirming his condition. EMT § 87(2)(b) additionally believed that § 87(2)(b)'s level of intoxication merited his being transported to the hospital. EMS transported § 87(2)(b) to § 87(2)(b) Hospital. EMT § 87(2)(b) did not later learn what § 87(2)(b)'s diagnosis was, as he was not present for § 87(2)(b)'s interactions with § 87(2)(b) medical staff. § 87(2)(b) did not recall if § 87(2)(b) ran into the street while in police custody, or if he was alleged to have done so.

According to the medical records, § 87(2)(b) displayed multiple symptoms of psychosis during this incident and was diagnosed with § 87(2)(b) (Board Review 03; Board Review 07). § 87(2)(b) refused to identify himself to officers and EMTs. § 87(2)(b) asked to go to jail so he could be fingerprinted and sent to Russia.

Patrol Guide Procedure 216-01 states that officers must cooperate with EMS in every reasonable matter (Board Review 16).

EMT § 87(2)(b) acknowledged making the decision to remove § 87(2)(b) to the hospital for § 87(2)(b)'s safety, based on § 87(2)(b)'s level of intoxication and his refusal to cooperate with EMS, making it impossible for them to evaluate him at the scene. As noted in Patrol Guide Procedure 216-01, officers must cooperate with EMS in every reasonable matter. § 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to six other CCRB complaints and has been named as a victim in 20 allegations (Board Review 05).
 - CCRB case #201214133 involved a force allegation. This case was closed as complainant uncooperative.
 - CCRB case #201700307 involved allegations of force, which were unfounded, and allegations of force which were exonerated.
 - CCRB case #201804720 involved force allegations. This case was closed as mediation attempted.
 - CCRB case #201900821 involved force and refusal to provide shield number allegations. To date, this investigation still open.
 - CCRB case #201902890 involved a forcible removal to the hospital allegation which was closed as complainant unavailable.
 - CCRB case #201903958 involved force and interference with recording device allegations. To date, this investigation is still open.
- PO Moscato has been a member-of-service for 15 years and this is the fifth CCRB complaint to which he has been a subject with 14 allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- § 87(2)(b) accepted mediation and this case was sent to ADR on August 21, 2018. This case was returned to investigations on December 18, 2018.
- As of March 21, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 08).

- § 87(2)(b) [Redacted]
[Redacted]
[Redacted]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date